IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 2347 of 2005()

CRA.262/2004 of ADDL. SESSIONS COURT, ALAPPUZHA
CC.249/2003 of JDUL.MAGISTRATE OF FIRST CLASS, RAMANKARI

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REVN. PETITIONER: APPELLANT/ACCUSED.

SOMANATHAN, SREERANGAM,
THIRUVAMPADI, PAZHAVEEDU P.O. ALAPPUZHA.

BY ADV. SRI.C.V.MANUVILSAN
SRI.G.SUDHEER (THURAVOOR)

RESPONDENTS: COMPLAINANT.

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1. N.K.RAGHAVAN, SANTHOSH, PAZHAVEEDU P.O.
ALAPPUZHA.

2. STATE OF KERALA, REP. BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SMT.C.G.BINDU
SMT.C.G.AJITHA
PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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CRL. R.P. 2347 OF 2005

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Dated this the 27th November, 2006

O R D E R

The petitioner is the accused in C.C.No. 249 of 2003 on the file of the court of the Judicial Magistrate of the First Class, Ramankary. He was convicted for the offence under section 138 of the Negotiable Instruments Act and was sentenced to undergo simple imprisonment for six months and to pay a sum of Rs. 33,000/- as compensation under section 357(3) of the Code of Criminal Procedure and in case of default of payment of compensation, to undergo simple imprisonment for three months. The petitioner challenged the conviction and sentence in Crl. Appeal. No. 262 of 2004 on the file of the court of the Addl. Sessions Judge, Alappuzha. The appellate court confirmed the conviction and sentence.

2. Counsel for the petitioner submits that a sum of Rs. 11,000/- (Rupees eleven thousand only) was deposited by the petitioner /accused before the trial court, as directed by this court in the order dated 13th september, 2005. He also submits that the sentence of imprisonment for six months is too harsh and that in the nature of the offence and facts and

circumstances of the case, it would be reasonable to impose a very minimum sentence of imprisonment. He also submits that the petitioner is prepared to pay the balance amount of compensation within a period of one month. Learned counsel for the first respondent agrees that one month's time can be granted to the petitioner to pay the balance amount of compensation . The first respondent has no objection to reduce the sentence of imprisonment as imprisonment till the rising of the court.

3. Having heard the counsel for the parties and also considering the facts and circumstances of the case, I am inclined to reduce the sentence as imprisonment till the rising of the court and to grant one month's time to the petitioner to pay the balance amount of compensation .

4. In the result, the Crl. Revision Petition is allowed in part. Conviction of the petitioner is confirmed. The sentence of imprisonment is reduced to imprisonment till the rising of the court. The direction to pay compensation of Rs. 33,000/- is also confirmed. The petitioner is granted

one month's time to pay the amount of compensation. Since the petitioner has already remitted a sum of Rs. 11,000/-, he need pay only the balance amount of Rs.22,000/- (Rupees twenty two thousand only) within a period of one month from today. In case, the petitioner commits default in payment of compensation, he shall undergo simple imprisonment for one month and to that extent, the sentence is modified.

The first respondent/ complainant will be entitled to withdraw the amount deposited by the petitioner/accused before the trial court.

K.T. SANKARAN,
JUDGE.

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